

AMENDED IN SENATE MAY 22, 1997

AMENDED IN SENATE MAY 5, 1997

SENATE BILL

No. 609

Introduced by Senator Karnette

February 25, 1997

An act to amend Sections 23801, 23803, 23805, and 23958 of, and to add Sections 23800.1, 23800.2, ~~23800.3, and 23800.4~~ and 23800.3 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 609, as amended, Karnette. Alcoholic beverages: retail license.

The Alcoholic Beverage Control Act authorizes the Department of Alcoholic Beverage Control to place reasonable conditions upon retail licensees or upon any licensee exercising retail privileges in certain specified situations. Existing law authorizes the department to remove or modify conditions which were placed on a license issued by the department upon, among other things, the filing of a petition by the licensee or a transferee requesting the removal or modification of those conditions.

This bill would provide that the imposition of any conditions, as specified, shall protect the public health, safety, welfare, or morals, instead of the public welfare or morals. This bill would require notice to any affected local jurisdiction and a public hearing before removal of any conditions.

This bill would authorize the department to impose conditions upon a retail licensee at the time of transfer of a license where specified conditions exist and would establish procedures for this authority.

The bill would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23800.1 is added to the Business
2 and Professions Code, to read:

3 ~~23800.1. The department may impose conditions~~
4 ~~upon any retail licensee at the time of transfer of a license.~~
5 ~~In order for the conditions to be imposed, notice and~~
6 ~~hearing shall be provided in accordance with this division~~
7 ~~and Chapter 5 (commencing with Section 11500) of Part~~
8 ~~4 of Division 3 of Title 2 of the Government Code.~~

9 ~~SEC. 2. Section 23800.2 is added to the Business and~~
10 ~~Professions Code, to read:~~

11 ~~23800.2~~

12 ~~23800.1. The department may impose conditions~~
13 ~~upon any retail licensee at the time of transfer of a license~~
14 ~~based upon information obtained from allegations by~~
15 ~~individuals, local governments, hearings, independent~~
16 ~~investigation by the department, or by any combination~~
17 ~~thereof.~~

18 ~~SEC. 3. Section 23800.3 is added to the Business and~~
19 ~~Professions Code, to read:~~

20 ~~23800.3.—~~

21 ~~SEC. 2. Section 23800.2 is added to the Business and~~
22 ~~Professions Code, to read:~~

23 ~~23800.2. Any of the following circumstances are~~
24 ~~grounds for placing conditions upon any retail licensee at~~
25 ~~the time of transfer of a license:~~

26 ~~(a) A substantial change in the mode or character of~~
27 ~~operation of the establishment relating to the sale or~~
28 ~~consumption of alcoholic beverages.~~

29 ~~(b) A substantial change in the character of the~~
30 ~~neighborhood.~~

1 (c) The operation is determined to be a disorderly
2 house.

3 (d) An undue concentration of licenses as defined in
4 Section 23958.4.

5 (e) Criminal or other activity on the premises,
6 including, but not limited to, the following acts:

7 (1) Sales to obviously intoxicated persons.

8 (2) Sales to persons under the age of 21 years.

9 (3) After-hours sales.

10 (4) Public nuisances connected with the premises.

11 (5) Violations of restrictions placed upon the license,
12 the department's regulations, or local ordinances.

13 ~~SEC. 4. Section 23800.4 is added to the Business and~~
14 ~~Professions Code, to read:~~

15 ~~23800.4.—~~

16 *SEC. 3. Section 23800.3 is added to the Business and*
17 *Professions Code, to read:*

18 23800.3. (a) The burden of proving that there are
19 grounds for placing conditions upon any retail licensee is
20 on the party seeking the conditions. The allegations shall
21 demonstrate that the alleged acts have had an adverse
22 effect on the surrounding community.

23 (b) If the city council or other governing body of the
24 city in which the licensed operation is situated, if within
25 an incorporated area, or the board of supervisors of the
26 county in which the licensed operation is situated, if in an
27 unincorporated area, files a written request for conditions
28 on a retail license with the department at the time of
29 transfer, a hearing shall be held to determine if conditions
30 should be imposed on the licensee.

31 ~~SEC. 5.—~~

32 *SEC. 4. Section 23801 of the Business and Professions*
33 *Code is amended to read:*

34 23801. The conditions authorized by Section 23800,
35 23800.1, 23800.2, ~~23800.3, or 23800.4~~ or 23800.3 may cover
36 any matter relating to the privileges to be exercised
37 under the license, the personal qualifications of the
38 licensee, the conduct of the business or the condition of
39 the premises, which will protect the public health, safety,

1 welfare, or morals, including, but not limited to, the
2 following:

3 (a) Restrictions as to hours of sale.

4 (b) Display of signs.

5 (c) Employment of designated persons.

6 (d) Types and strengths of alcoholic beverages to be
7 served where these types or strengths are otherwise
8 limited by law.

9 (e) In cases under subdivision (c) of Section 23800, the
10 portion of the privileges to be exercised under the license.

11 (f) The personal conduct of the licensee.

12 ~~SEC. 6.—~~

13 SEC. 5. Section 23803 of the Business and Professions
14 Code is amended to read:

15 23803. The department, upon its own motion or upon
16 the petition of a licensee or a transferee who has filed an
17 application for the transfer of the license, if it is satisfied
18 that the grounds which caused the imposition of the
19 conditions no longer exist, shall order their removal,
20 provided notice has been given to the affected local
21 jurisdictions and a public hearing is held.

22 Any petition for the removal or modification of a
23 condition pursuant to this section shall be accompanied
24 by a fee of one hundred dollars (\$100).

25 ~~SEC. 7.—~~

26 SEC. 6. Section 23805 of the Business and Professions
27 Code is amended to read:

28 23805. The proceedings specified in ~~subdivisions~~
29 *subdivision* (a), (b), or (c) of Section 23800 or Section
30 23800.1, 23800.2, ~~23800.3, or 23800.4~~ or 23800.3 shall be
31 conducted in the same manner as is required for other
32 proceedings involving petitions, protests or accusations,
33 and the right of a respondent in those proceedings to
34 appeal shall include the right to appeal from an order
35 imposing conditions upon the licenses involved in the
36 proceedings. If the department denies a petition filed
37 under Section 23803, the licensee or transferee may,
38 within 10 days after the mailing of that denial, make a
39 written request for a hearing. The proceedings at the
40 hearing shall be conducted as provided in Section 24300,

1 and the respondent shall have the same rights of appeal
2 therefrom as in disciplinary actions.

3 ~~SEC. 8.—~~

4 *SEC. 7.* Section 23958 of the Business and Professions
5 Code is amended to read:

6 23958. Upon receipt of an application for a license or
7 for a transfer of a license and the applicable fee, the
8 department shall make a thorough investigation to
9 determine whether the applicant and the premises for
10 which a license is applied qualify for a license and
11 whether the provisions of this division have been
12 complied with, and shall investigate all matters
13 connected therewith which may affect the public health,
14 safety, welfare, or morals. The department shall deny an
15 application for a license or for a transfer of a license if
16 either the applicant or the premises for which a license
17 is applied do not qualify for a license under this division.

18 The department further shall deny or place restrictions
19 on an application for a license if issuance of that license
20 would tend to create a law enforcement problem, or if
21 issuance would result in or add to an undue concentration
22 of licenses, except as provided in Section 23958.4.

